IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH JAIPUR

Order

S.B. CIVIL MISC. APPEAL NO.2076/2005
SMT. PANCHI AND OTHERS V. GURUDAYAL SINGH & OTHERS

DATE OF ORDER :::::: OCTOBER 30, 2006

PRESENT

HON'BLE MR. JUSTICE PREM SHANKER ASOPA

Mr. S.Jain, for the appellants
Mr. Digvijay Mantri, for the respondent

This appeal for enhancement of the compensation has been filed by the claimants challenging the Award dated 27.04.2005 passed by the Judge, Motor Accident Claims Tribunal, Beawar and Addl.Distt. Judge (Fast Track) Beawar in Claim Petition No. 428/2004 whereby compensation amounting to Rs.1,96,800/- has been awarded.

The facts of the case, in brief, are that on 7.9.1998 when the deceased Balu was going on a bicycle to his village, when he reached near canal, suddenly a trailer bearing No.HR-38-1442 dashed Balu who succumbed to the injuries sustained by him.

The deceased Balu, aged 52 years, who at the time of accident was stated to be an agriculturist was having income of Rs.150/- per

day. His wife was also of the same age. Since no proof of the income from agriculture was submitted before the Tribunal, therefore, it has taken the minimum income of Rs.2,100/- as monthly income taking into consideration the year 1998 in which the accident occurred, thereafter, deducted 1/3rd on account of personal expenses of the deceased and worked out the dependency at Rs.1,400/-. Multiplier of 11was taken into consideration while considering the age of 52 years and awarded a sum of Rs.1,84,800/-. An amount of Rs.5,000/- has been awarded under the head of `love and affection' but no consortium was awarded.

Submission of the learned counsel for the appellant is that even at the age of 52 years, consortium is to be awarded and further award of Rs.5,000/- on account of love and affection for five children is on the lower side.

Learned counsel for the contesting Insurance Company opposed enhancement of the Award.

I have heard learned counsel for the appellant, perused the impugned Award and further considered rival submissions of the counsel for the parties.

I am of the view that considering income of Rs.2,100/- and after deducting 1/3rd thereof, monthly income of Rs.1,400/- has rightly been arrived at by the Tribunal and considering the age of the claimant, the

multiplier of `11' has also rightly been applied. There is no error as regards the amount of Rs.1,84,800/- is concerned but non award of the consortium is an illegality and payment of Rs.1,000/- each for love and affection is on the lower side. Therefore, I award Rs.5,000/- for consortium and enhance the amount of Rs.1,000/- each to Rs.3,000/- each for love and affection of five children i.e. Rs.15,000/-. Thus, the total Award amount is enhanced to Rs.1,84,800/- + Rs.5,000/- + Rs.10,000 = Rs.1,99,800/-.

The appeal is partly allowed and the Award is modified as indicated above.

(PREM SHANKER ASOPA),J.

GOPAL